BILL NO. S-80-10-56

SPECIAL ORDINANCE NO. S-141-80

AN ORDINANCE approving a contract between the City of Fort Wayne, Indiana and David S. Richey.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That a certain contract dated September 1, 1980, between the City of Fort Wayne, Indiana by and through its Mayor and the Board of Public Works and David S. Richey, a utility specialist attorney, as special counsel to represent the City and its City Utilities before the Public Service Commission of Indiana in the hearings relative to the submission of the petition for a rate increase and refund filed by the Indiana & Michigan Electric Company now pending in Cause Number 34588, at a cost of $15,000.00, all as more particularly set forth in said contract which is on file in the Office of the Board of Public Works and are by reference incorporated herein and made a part hereof, be and the same is in all things hereby ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be effective upon passage and approval by the Mayor.

COUNCILMAN

APPROVED AS TO FORM AND LEGALITY OCTOBER 24, 1980.

JOHN E. HOFFMAN
City Attorney

Read the first time in full and on motion by Burns, seconded by Quinn, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on ~~, the~~ day of ~~, 19~~, at ~~o'clock~~ M.,E.S.T.

DATE: 10-28-80

CHARLES W. WESTERMAN
CITY CLERK

Read the third ~~time~~ in full and on motion by Burns, seconded by Eisbart, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	8			1	
BURNS	X				
EISBART	X				
GiaQUINTA	X				
NUCKOLS	X				
SCHMIDT, D.				X	
SCHMIDT, V.	X				
SCHOMBURG	X				
STIER	X				
TALARICO	X				

DATE: 11-25-80

CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP)~~ ~~(GENERAL)~~ ~~(ANNEXATION)~~ (SPECIAL) ~~(APPROPRIATION)~~ ORDINANCE ~~(RESOLUTION)~~ No. S-141-80 on the 25th day of November, 19 80.

ATTEST: (SEAL)

CHARLES W. WESTERMAN - CITY CLERK — PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of November, 19 80, at the hour of 2:30 o'clock P M.,E.S.T.

CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 1st day of Dec. 19 80, at the hour of 10:30 o'clock A M.,E.S.T.

WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S-80-10-56

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS REFERRED AN ORDINANCE approving a contract between the City of Fort Wayne Indiana and David S. Richey

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

PAUL M. BURNS, CHAIRMAN

BEN EISBART, VICE CHAIRMAN

JOHN NUCKOLS

MARK GiaQUINTA

ROY SCHOMBURG

11-25-80

CONCURRED IN

DATE _____ CHARLES W. WESTERMAN, CITY CLERK

BOARD OF PUBLIC WORKS CONTRACT
FOR SPECIAL ATTORNEY SERVICES

THIS AGREEMENT, made between the CITY OF FORT WAYNE and DAVID S. RICHEY, Attorney, WITNESSETH:

WHEREAS, in June 1976, Indiana & Michigan Electric Company filed a petition with the Public Service Commission of Indiana seeking authority to increase its rates and charges, which the Commission approved and granted authority for the rate increase requested;

WHEREAS, the rates approved by the Commission were calculated using the statutory federal income tax rate rather than the actual or effective income tax rate;

WHEREAS, the action of the Commission was appealed to the Court of Appeals of Indiana in Cause Number 2-577A163 and said Court found that the rate increase based on the claimed statutory income tax rate was invalid and ordered said matter returned to the Indiana Public Service Commission for re-hearing and re-calculation and said matter is now pending before the Public Service Commission of Indiana in Cause Number 34588;

WHEREAS, the re-determination of said requested rate increase and/or refund of monies collected by Indiana & Michigan Electric Company pursuant to said rate increase will have a substantial effect on the charges for electricity to City Utilities of Fort Wayne.

WHEREAS, the City Utilities have orally employed Attorney David S. Richey of Lebanon, Indiana, a specialist in utility law, to represent the City Utilities of Fort Wayne in said matter.

NOW THEREFORE, IT IS HEREBY AGREED:

1. That the City of Fort Wayne shall employ David S. Richey a utility specialist attorney as special counsel to represent it before the Public Service Commission of Indiana in the hearings relative to the submission of the petition for a rate increase and refund filed by the Indiana & Michigan Electric Company now pending in Cause Number 34588.

2. That David S. Richey agrees to serve as special counsel for the City of Fort Wayne and its City Utilities as set forth above to do factual investigation, legal research and participate in the hearings before the Public Service Commission and to take such other legal action pertaining to said hearings as may be necessary.

3. That the City Utilities of Fort Wayne shall reimburse said counsel in the performance of said services for his out-of-pocket expenses incurred, including long distance telephone, travel, overnight lodging, and out-of-town meal expenses, away from his office at Lebanon, Indiana, and shall pay to said counsel for his services compensation at the rate of $70.00 per hour for work performed and for counsel's appearances at hearings and other matters conducted pertaining to this cause.

4. The maximum reimbursement of expenses and compensation payable to counsel under this Agreement shall be the sum of Fifteen Thousand and No/100 Dollars ($15,000.00).

Dated this 1st day of September, 1980.

THE CITY OF FORT WAYNE

BY: _____

BY: _____

BY: _____

Its Board of Public Works

_____
WIN C. MOSES, JR.
Its Mayor

_____
DAVID S. RICHEY

APPROVED AS TO FORM AND LEGALITY.

_____
JOHN E. HOFFMAN
City Attorney

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FOR SPECIAL ATTORNEY SERVICES

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Dated this 1st day of September, 1980.

THE CITY OF FORT WAYNE

BY: _____

BY: _____

BY: _____

Its Board of Public Works

_____
WIN C. MOSES, JR.
Its Mayor

_____
DAVID S. RICHEY

APPROVED AS TO FORM AND LEGALITY.

_____
JOHN E. HOFFMAN
City Attorney

Council 11/25/80

H.I.

70-42-23 11/12/80

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FOR SPECIAL ATTORNEY SERVICES

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Dated this 1st day of September, 1980.

THE CITY OF FORT WAYNE

BY: _____

BY: _____

BY: _____

Its Board of Public Works

_____
WIN C. MOSES, JR.
Its Mayor

_____
DAVID S. RICHEY

APPROVED AS TO FORM AND LEGALITY.

_____
JOHN E. HOFFMAN
City Attorney

#67

PARR, RICHEY, OBREMSKEY & MORTON
ATTORNEYS AT LAW
225 WEST MAIN STREET
POST OFFICE BOX 668
LEBANON, INDIANA 46052
LEBANON TELEPHONE 482-0110
ZIONSVILLE TELEPHONE 873-4641

W. H. PARR, JR.
DAVID S. RICHEY
PETER L. OBREMSKEY
DON F. MORTON
WARREN D. KREBS
WILLIAM R. NICHOLS
KENT M. FRANDSEN
CHARLES W. RITZ, III

September 2, 1980

W. H. PARR
1878-1967
ALLEN PARR
1910-1959

Mr. John E. Hoffman
City Attorney
City-County Building
One Main Street
Fort Wayne, Indiana 46802

RE: Representation, City of Fort Wayne, I & M
Refund Litigation
Cause No. 34588, Public Service Commission

Dear John:

I enclose herein our bill for services to date and in response to your letter of July 11, 1980, I have no objections to entering into a contract. The content and form of the contract which you had forwarded me and had utilized with Robert Thompson in the General Telephone Company case is satisfactory to me, other than you will note in that contract Mr. Thompson was charging at the rate of Fifty Dollars ($50.00) per hour for office-time work and Sixty-Five Dollars ($65.00) per hour for hearings and other matters conducted out of his office. Our attorney fee is Seventy Dollars ($70.00) per hour "portal-to-portal" basis, irrespective of nature of or place where performing services. In addition we would be reimbursed reasonable expenses.

Very truly yours,

PARR, RICHEY, OBREMSKEY & MORTON

By _____

DSR:pjh

Enclosure: One

cc: Mayor Winfield C. Moses, Jr.

STATEMENT

August 27, 80

LEBANON, INDIANA. 46052 19

The City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

IN ACCOUNT WITH

Parr, Richey, Obremskey & Morton

ATTORNEYS AT LAW

TELEPHONE 482-0110 225 W. MAIN STREET

EMPLOYERS IDENTIFICATION NUMBER 350898792

Re: I & M Refund

1980		Hours	Expenses
May 27	Research	2	
May 29	Review of data; preparation for conference	2	
May 30	Preparation for and attendance at conference at Indianapolis; research	4 1/2	
May 30	Mileage to Indianapolis; lunches		30.75
May 31	Research	2 1/2	
June 2	Conference with Court of Appeals	4	
June 2	Mileage to Indianapolis		12.00
June 3	Conference at Court of Appeals; attention to PSC records	6	
June 3	Mileage to Indianapolis		12.00
June 5	Review of transcript; research	3	
June 6	Conference with PSC; research	2	
June 6	Mileage to Indianapolis; lunch		20.95
June 9	Attention file re scheduling and alternatives	3	
June 9	Telephone to Mr. Prater		.68
June 10	Preparation for conference with Ft. Wayne officials and witnesses	6	
June 10	Mileage to Ft. Wayne; meals		58.30
June 11	Conference with officials in Ft. Wayne	7	
June 12	Telephone to Mr. Thompson in Ft. Wayne		2.00
June 12	Telephone to Mr. Prader in Ft. Wayne		2.00
June 12	Investigation	3	
June 19	Preparation for conference; review of records; conference in Indianapolis	4	
June 19	Mileage to Indianapolis		12.00
June 20	Conference at PSC; attention file re post-hearing matters	3	
June 20	Mileage to Indianapolis		12.00
July 1	Preparation for and attendance at conference in Indianapolis with I & M et al; research	6	

July 9	Conference; review of file	1 3/4	
July 9	Mileage to Indianapolis		12.00
July 10	Conference; attention to evidentiary matters	4	
July 14	Telephone conferences with Mr. Perry, et al; research	2	
July 15	Telephone conference; attention file re settlement	2	
July 17	Research; telephone conference; attention to settlement evaluations	2	
July 19	Research; conference re settlement	3	
July 21	Telephone conference; attention file re settlement	2	
July 23	Conferences; telephone conferences; attention file re settlement	2	
July 25	Review of I & M evidence; review of records at PSC	2 1/4	
July 25	Mileage to Indianapolis		12.00
July 28	Telephone conference with I & M et al; attention file re settlement	2	
Aug. 8	Conference; research; review of evidence	3	
Aug. 11	Review of evidence; preparation for hearing	2 1/2	
Aug. 13	Research; review of evidence	2	
Aug. 19	Review of evidence	2	
Aug. 22	Review of evidence and research	2	
	Total Hours and Expenses	92 1/2	$ 186.68
	92 1/2 hours x $70 per hour		6,475.00
	Total Services		$ 6,661.68

DIGEST SHEET

TITLE OF ORDINANCE: Special S-80-10-56

DEPARTMENT REQUESTING ORDINANCE: Board of Works

SYNOPSIS OF ORDINANCE: An ordinance approving a City Utilities contract between the City of Fort Wayne, Indiana and David S. Richey for services for representation before the Public Service Commission in the rate refund case #34588 involving Indiana & Michigan Electric Company.

EFFECT OF PASSAGE: Authorization of payment of fees of David S. Richey, and representation in Indiana & Michigan rate refund case.

EFFECT OF NON-PASSAGE: Non-payment of fees and no representation

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): per hour cost and expenses, maximum $15,000.00.

ASSIGNED TO COMMITTEE: City Utilities